

<b>DIVISION OF MINED LAND RECLAMATION</b>		<b>PROCEDURE NO.</b>	4.1.04
<b>PROCEDURES MANUAL</b>		<b>ISSUE DATE</b>	
<b>SUBJECT</b>	AML Enhancement Projects	<b>Section</b>	Reclamation Services & AML Sections
		<b>Last Revised</b>	April 27, 2006

### **OBJECTIVE AND INTENT :**

To provide guidance and direction to the Reclamation Services and AML staff in implementing an AML enhancement project, whereby, coal removed and sold must be incidental to the AML enhancement project, i. e., physically necessary to remove in order to address the identified health, safety, or environmental problem of the approved AML enhancement project.

### **GENERAL:**

Pursuant to a final rule published in the Federal Register (Vol. 64, pages 7470-7483; Feb. 12, 1999), AML projects that involve the incidental extraction of coal may be approved in instances where less than 50 percent government funding is involved. The rule requires that certain consultations and concurrences occur relative to the Title IV and V Programs to ensure the appropriateness of the project being undertaken as an AML project and not under the Title V regulatory program.

Sites that involve the redisturbance and subsequent reclamation of abandoned mine lands, such as highwalls and outcrops that have become environmentally stable over the years will not meet the requirements of an AML eligible site and shall not be considered for a proposed AML enhancement project.

The areas eligible for AML enhancement generally have little likelihood of being reclaimed under either the current Title IV or Title V programs. A site may be selected only –

- After the DMLR determines that private industry would be unable or unwilling to remine and reclaim the site as a Title V operation;
- After the project is determined to meet the eligibility requirements of the Title IV program;
- If the coal removal is incidental to the reclamation project; and
- If included in the AML inventory.

Examples of projects that may qualify for AML enhancement are those that have the potential to –

- Remedy adverse subsidence impacts,
- Reduce the likelihood of perpetual acid mine drainage problems that are costly to treat through conventional chemical means or to permanently eliminate acid mine drainage by removing the source of the problem,
- Remove a refuse pile that has the potential for combustion or causing sedimentation to streams, and
- Eliminate unstable highwalls that pose a public health and safety threat or hazard.

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### **Procedures:**

Whenever a site is considered for an AML enhancement project, the appropriate AML office staff, the Inspector, and Supervisor shall review the project proposal to make certain findings and determinations to include -

1. Whether government financing<sup>1</sup> (see Procedure 2.1.06 Exemptions for Government Financed Projects) will be involved;
2. That the site meets the AML eligibility requirements;
3. The identification of the public health, safety or environmental problem or hazard that exists and needs correction. (This may be characterized in terms of problems associated with mine drainage, active slides, slide prone areas, erosion and sedimentation, vegetation, toxic materials, or hydrologic balance.);
4. The limits on any coal refuse, coal waste, or other coal deposits that can be extracted incidental to the proposed reclamation project;
5. The likelihood of the coal being mined under a Chapter 19 permit - considering the coal reserves from existing mine maps or other sources; existing environmental conditions; all prior mining activity on or adjacent to the site; current and historic coal production in the area; and any known or anticipated interest in mining the site;
6. Whether nearby or adjacent mining activity might create new or adversely affect existing environmental problems at the site;
7. Whether reclamation activity at the site might adversely affect nearby or adjacent mining activities.

These determinations and findings will be documented in writing by the appropriate AML office staff, the Inspector, and Supervisor then forwarded to the AML and Reclamation Services managers for their review and action. If the recommendation is to proceed with the enhancement project, the written findings shall –

1. Set the limits on any coal refuse, coal waste, or other coal deposits which may be extracted under Part 4 VAC 25-130-707.
2. Delineate the boundaries of the AML project.
3. Describe the existing hydrologic and other environmental problems that will be eliminated.

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<sup>1</sup> Government financing shall be in accord with FEDERAL REGISTER 68 FR 65622 (November 20, 2003), DEPARTMENT OF THE INTERIOR (DOI), Office of Surface Mining Reclamation and Enforcement (OSRME), 30 CFR Part 707, Abandoned Mine Land (AML) Reclamation Program; Enhancing AML Reclamation, ACTION: Final rule.

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Should the managers concur with the determinations and findings, both will sign the document and forward it to the DMLR Director for final review and approval. If approved, the decision will be copied to the appropriate AML office staff, Inspector and Supervisor.

The enhancement project file, maintained by the AML office staff, will include -

- A copy of the written decision;
- Consultation letters and concurrence determinations;
- Information taken into account in making the determinations; and,
- Names of the parties making the determinations.

### **Project Plans:**

The contractor will be required to submit detailed plans that include –

- A detailed description regarding how the proposed work will be conducted.
- A ground control plan<sup>2</sup> that will also identify how the project site will be marked/flagged to designate the boundary of areas that may be disturbed during the enhancement operations. The plan will also identify any utilities in the project area (gas lines, power lines, etc.) and a description of how these facilities will be protected.
- Maps delineating the extent of the coal to be removed in both horizontal and vertical planes.
- Slope cross sections (before and after) with yardage calculations to show that adequate material is available to eliminate any highwalls involved and to reclaim the area with minimal disturbance of contiguous areas.
- Planned sediment and drainage control measures (plan views showing location of sediment control measures and, where applicable, detailed typical drawings of each type to be used and specifications of structures).
- If the project involves a refuse area, a description of how scalp rock or other unsuitable material such as boulders or unmarketable material will be disposed, including identification of disposal locations.
- A discussion of what measures will be taken if unanticipated event(s) occur (e.g., if the project involves a refuse area, what would be done in the event a refuse fire is encountered).
- The documents that authorize the extraction of the coal and payment of royalties.

Prior to execution of an AML enhancement agreement between the DMME and the contractor, the appropriate AML office staff will conduct an applicant violator check on the contractor (AVS: see DMLR

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<sup>2</sup> See DMLR Procedure 4.1.05.

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procedures 2.2.05 and 2.2.05A). A contractor who is listed in AVS as a being blocked will be ineligible to conduct an AML enhancement project until he resolves the outstanding AVS issue(s). A copy of the AVS check is to be included in the AML project file.

The executed agreement between the contractor and the agency will define the obligations and responsibilities incumbent on each party.

### **INSPECTIONS:**

After an AML enhancement agreement is executed, the Inspector will remind the contractor of the limits of the project.

Field inspections will be conducted at least monthly to ensure that the reclamation project is conducted in accordance with contract provisions and Subchapter VR of the regulations. Prior to project close out, the field inspector must have an on-site meeting with the contractor to approve on the ground reclamation and fulfillment of the contract obligations. This approval will be documented in the field inspection report.

In the event the contractor plans or attempts to extract coal beyond the limits of the approved project, the Inspector or Supervisor will notify the Reclamation Services and AML managers of the situation. The Inspector shall immediately inform the contractor that any extraction for an area that is not incidental to the reclamation project must cease and any further activity would be conditioned on the submittal and approval of a permit application under the coal regulatory program. Contractors removing coal outside the limits authorized by the AML enhancement project will also be subject to appropriate action, such as but not limited to enforcement action per DMLR Procedure 3.3.01; termination of AML contracts; forfeiture of any performance and reclamation bond; and being prohibited from conducting any further AML projects.

If there is an unintended coal removal beyond that anticipated in the executed agreement, the AML Manager shall consult with the Reclamation Services Manager to determine whether such extraction, if less than 250 tons, may be exempt from the Title V permitting requirements. No further coal extraction would be allowed until such determination is made, and if applicable, a Chapter 19 permit application is submitted and approved. The determination shall be documented in writing by the Reclamation Services Manager and made a part of the AML enhancement project file and copied to the Inspector, Supervisor, contractor, and appropriate AML office staff.

The AML enhancement agreement, including modification of project plans, may be amended at any time upon written agreement of the parties. If additional coal is proposed to be removed, an amendment to the agreement will require written concurrence between the Title IV and the Title V programs.